

Message Text

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PAGE 01 LUSAKA 01067 211234Z
ACTION OPIC-06

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C O N F I D E N T I A L LUSAKA 1067

E.O. 11652: GDS
TAGS: EINV
SUBJ: TAW

REF: (A) STATE 084378, (B) LUSAKA 0987, (C) LUSAKA 937

1. EMBASSY APPRECIATES INFO PROVIDED REFTEL A. ELLIS AND COMPANY LAWYER MR. FLUCK, WHO HAS REPLACED QUIRK AS ATTORNEY DEALING WITH TAW CASE CALLED ON EMBASSY (REFTEL B) AND BROUGHT US UP TO DATE. HE ALSO ASSURED US HE WOULD KEEP US INFORMED AS CASE PROGRESSES.

2. FLUCK ADVISED EMBASSY THAT LIQUIDATOR WILL SOON BE APPOINTED IN CASE AND THAT LIQUIDATOR WOULD APPROACH GRZ RE INVESTIGATION OF POSSIBLY FRAUDULENT TRUCK SALES TO YANJANANI. FOR REASONS DISCUSSED BELOW EMBASSY RECOMMENDS THIS COURSE OF ACTION AS OPPOSED TO EMBASSY INITIATING REQUEST PER PARA 5 (D) REFTEL A. SHOULD LIQUIDATOR FAIL TO ELICIT RESPONSE OR ACTION FROM GRZ, EMBASSY WOULD RECONSIDER RECOMMENDATION.

3. "PROBLEM" REFERRED TO IN PARA 5 REPEAT 5 REFTEL C REFERS TO COMMENTS BY SENIOR ZAMBIAN OFFICIALS THAT THEY WOULD LIKE TO DISCUSS TAW WITH US AND AN INABILITY TO RESPOND BECAUSE OF LACK OF INFORMATION ON STATUS OF CASE. WE SURMISE THAT SUBJECT THEY REFER TO IS LITIGATION
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AGAINST TAW. HIGH LEVEL GRZ OFFICIALS HAVE AN INTEREST IN THE CASE AND, WHILE GRZ VERSUS TAW AND OPIC VERSUS TAW LEGAL ACTIONS APPEAR ONLY INDIRECTLY RELATED, RESOLUTION OF EITHER ISSUE WILL AFFECT THE OTHER. FOR EXAMPLE, IF GRZ WINS JUDGMENT AGAINST TAW IT WILL PRESUMABLY HAVE CLAIM ON SAME TAW ASSETS AS OPIC IN ZAMBIA. GRZ AND OPIC WOULD THEN HAVE COMMON INTEREST IN DETERMINING

LEGALITY OF TRUCK SALE. GRZ OFFICIALS THEREFORE INTERESTED
IN ALL ASPECTS OF TAW CASE(S).

4. PARA 5 (C) REFTEL A REFERS TO TAW OFFER OF COOPERA-
TION IF OPIC AND OTHER CREDITORS FINANCE THEIR ARBITRATION
AGAINST GRZ. AGREEMENT BY A USG AGENCY TO FINANCE PRIVATE
LITIGATION AGAINST GRZ COULD HAVE SERIOUS IMPACT ON
US/ZAMBIAN RELATIONS. FLUCK INFORMED US THAT OPIC AND
OTHER CREDITORS WOULD PROBABLY NOT GO ALONG WITH TAW
PROPOSAL BUT REFTEL A INDICATES MATTER HAS NOT BEEN DE-
CIDED. WHILE EMBASSY DOES NOT OFFER OPINION ON POSSIBILITY
OF SUCCESS OF TAW LITIGATION, URGE DEPARTMENT AND OPIC
SERIOUSLY WEIGH BROADER IMPLICATIONS OF SUCH A MOVE.

5. WHILE EMBASSY NOW HAS GENERAL UNDERSTANDING OF VARIOUS
LEGAL ACTIONS INVOLVING TAW, WE ARE LESS THAN CERTAIN OF
THE IMPLICATIONS THAT VARIOUS USG ACTIONS WOULD HAVE ON
OUR RELATIONS WITH ZAMBIA. IMPLICATIONS OF SCENARIO IN
PARA THREE OBVIOUSLY DIFFERENT FROM THOSE IN EVENT TAW
WINS ARBITRATION AGAINST ZAMBIA USING LEGAL COUNSEL
PAID FOR BY OPIC. EMBASSY RECOMMENDS THEREFORE THAT
ELLIS AND COMPANY TOGETHER WITH LIQUIDATOR TAKE LEAD ROLE
IN WINDINGUP PROCEDURES HERE IN ZAMBIA INCLUDING REQUEST
TO GRZ TO INITIATE INVESTIGATION INTO TRUCK SALE.

6. EMBASSY WOULD APPRECIATE INFORMATION ON ALL ASPECTS
OF THE CASE AS THEY DEVELOP AND IN PARTICULAR NOTIFI-
CATION AS SOON AS DECISION REACHED ON PROPOSAL TO HAVE
CREDITORS FINANCE TAW ARBITRATION AGAINST GRZ.
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LOW

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